

Remarks

The applicant wishes to thank Examiner Wilson for the courtesies extended to the undersigned in a telephonic interview conducted on March 12, 2007. The remarks herein are intended to summarize and amplify the matters discussed in such interview.

Claims 1-6 and 8-23 are pending and at issue in the present application.

Applicant respectfully traverses the rejection of claims 1-6 and 8-23 as either anticipated by or obvious over Miller et al. (Miller).

Claim 1, and claims 2, 3, and 21 dependent directly or indirectly thereon, recite an evaporative device that includes a container for holding a liquid, wherein the container has an opening. The device also includes a porous wick that extends through the opening such that a portion of the wick contacts the liquid held within the container. A portion of the wick is exposed to the ambient environment, and the wick transfers the liquid from the container. The evaporative device further includes a capillary member that has a surface in communication with a portion of the wick. The capillary member has a nonporous capillary channel that extends radially from the wick.

Claim 4, and claims 5, 6, 8-11, 13, 14, and 16-20 dependent directly or indirectly thereon, specify an evaporative device that includes a container for holding a liquid, wherein the container has an opening. The device further includes a porous wick that extends through the opening such that a portion of the wick contacts the liquid held within the container. A portion of the wick extends outside of the container such that the wick transfers the liquid from the container. Still further, the device includes a capillary plate that has a surface in communication with a portion of the wick. The surface has nonporous capillary channels that extend radially from the wick along the surface of the capillary plate. The capillary channels are substantially continuous along lengths thereof.

Claim 12 recites an evaporative device that includes a container for holding a liquid, wherein the container has an opening. The device also includes a porous wick that extends through the opening such that a portion of the wick contacts the liquid held within the container. A portion of the wick extends outside of the container such that the wick transfers the liquid from the container. A cover encases a portion of the portion of the wick extending outside of the container. The device further includes a capillary plate that has a surface in communication with a portion of the wick. The surface has one or more capillary pathways

along which liquid, transferred by the wick from the container, is drawn by capillary action for dispersion to the ambient environment. The capillary pathways are substantially continuous along lengths thereof.

Claim 15 recites an evaporative device that includes a container for holding a liquid, wherein the container has an opening. The device also includes a porous wick that extends through the opening such that a portion of the wick contacts the liquid held within the container. A portion of the wick extends outside of the container such that the wick transfers the liquid from the container. The device further includes a capillary plate that has a surface in communication with a portion of the wick. The surface has one or more capillary pathways along which liquid, transferred by the wick from the container, is drawn by capillary action for dispersion to the ambient environment. The capillary pathways are substantially continuous along lengths thereof. The device has plural capillary plates, each having one or more capillary pathways, and the capillary pathways are in communication with the portion of the wick extending outside of the container. The plural capillary plates are movable such that the capillary pathways of each are removable from communication with the portion of the wick extending outside of the container. The plural capillary plates are actuatable in a direction away from the wick to separate the capillary pathways thereof from communication with the portion of the wick exposed to the ambient air.

Claim 22 recites an evaporative device that includes a container for holding a liquid, wherein the container has an opening. The device includes a porous wick that extends through the opening such that a portion of the wick contacts the liquid held within the container. A portion of the wick is exposed to the ambient environment, where the wick transfers the liquid from the container. The device further includes a nonporous capillary member having a surface in communication with a portion of the wick. One or more capillary pathways are disposed along the surface of the capillary member along which liquid, transferred by the wick from the container, is drawn by capillary action for dispersion to the ambient air. The capillary member is a capillary insert with at least one capillary channel formed thereon. A portion of the at least one capillary channel is in communication with a portion of the wick such that the capillary channel transfers liquid from the wick for dispersion to the ambient environment. The wick includes an aperture formed in a portion of the wick in an axial direction. The capillary insert is disposed within the aperture such that

the at least one capillary channel is in contact with an inner surface of the wick to transfer liquid from the wick to the capillary channel for dispersion to the ambient environment.

Claim 23 recites an evaporative device that includes a container for holding a liquid, wherein the container has an opening. The device also includes a porous wick that extends through the opening such that a portion of the wick contacts the liquid held within the container. A portion of the wick is exposed to the ambient environment, where the wick transfers the liquid from the container. The device further includes a nonporous capillary member that has a surface in communication with a portion of the wick. One or more capillary pathways are disposed along the surface of the capillary member along which liquid, transferred by the wick from the container, is drawn by capillary action for dispersion to the ambient air. The capillary member is a capillary insert with at least one capillary channel formed thereon. A portion of the at least one capillary channel is in communication with a portion of the wick such that the capillary channel transfers liquid from the wick for dispersion to the ambient environment. The wick includes an aperture formed in a portion of the wick in an axial direction. The capillary insert is disposed within the aperture such that the at least one capillary channel is in contact with an inner surface of the wick to transfer liquid from the wick to the capillary channel for dispersion to the ambient environment. The capillary insert is slidable within the wick.

Miller does not disclose expressly or inherently an evaporative device including a porous wick, as recited by each of claims 1-6 and 8-23.

In fact, Miller discloses a liquid air freshener dispenser device with nonporous capillary wicking function that has an outer container 12 and an inner container 14 that contains the air freshener medium 22 sealed therein via an impermeable membrane 20. The inner container 14 is inverted and internally nested in the outer container 12. The dispenser device 10 is in operational mode when the inner container 14 is in a position so that the capillary spacing between the container sidewalls provides a wicking means (but not a porous wick) for transport of the liquid air freshener medium 22 when released by breaching of the membrane 20.

Miller states that "FIG. 1 is a cross-sectional side view of present invention air freshener dispenser 10 which is in a non-operational mode" and further that "for activation...into an operational mode, the second [inner] container is adjusted until the

impermeable membrane [20] is breached by the sharp-structure [15] at the bottom of the first [outer] container. The released air freshener medium is transported by capillary action to the vapor-emanating surface for evaporation into the atmosphere.” (Column 3, lines 11-13, and the Abstract, emphasis added). Thus, the Miller device stores the air freshener medium 22 until the membrane 20 is breached, and therefore, the inner container 14 is impermeable to the air freshener medium. Contrary to the examiner’s assertion, neither the inner container 14 nor the key 30, which is a structural extension of the inner container 14, is a porous wick. This fact is further supported by the statement that “by inversion of the dispenser device 10 as shown in FIG. 3, an operational air freshener dispensing mode is converted into a non-operational dispensing mode. Air freshener medium 22 no longer has access to pierced membrane 20 for release from the enclosed reservoir volume of container 14.” (Column 3, lines 52-57). In fact, the wicking means of Miller is defined functionally in the Summary of the Invention, where it is stated that “the coextensive sidewalls of the two containers are in a capillary spacing proximity,” and that the “capillary spacing proximity of the container sidewalls provid[es] a wicking means for transport of the liquid air freshener medium...by capillary action to the vapor-emanating surface for evaporation....” (Column 2, lines 26-27 and 36-41).

“The identical invention must be shown in as complete detail is contained in the ... claim.” MPEP § 2131 citing *Richardson v. Suzuki Noto Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). At least for the above reasons, none of the claims at issue is anticipated by Miller.

The claims at issue are also not obvious over Miller. Miller fails to provide any motivation or suggestion for an artisan to combine the claimed combination of elements. In fact, Miller teaches away from the use of a porous wick by teaching the use of a nonporous wicking means. Miller characterizes a typical wicking device stating that it “utilizes a combination of a wick and emanating region to dispense a volatile liquid from a liquid reservoir.” (Column 1, lines 36-38). Miller continues by contrasting the Miller invention from such typical wicking devices by stating that “[o]f special interest with respect to the present invention are wicking dispenser devices in which the wicking action is promoted by a nonporous wick structure.” (Column 1, lines 42-44). Further, as stated in the abstract, the Miller invention “provides an air freshener dispenser device with a nonporous wicking

feature....” Thus, the principle of operation of the Miller invention embodies the use of a nonporous wicking feature, and thereby expressly teaches away from using a porous wick.


“If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.” MPEP § 2143.01 (VI) citing *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). At least for the above reasons, none of the claims at issue is obvious over Miller.

For the foregoing reasons, reconsideration and withdrawal of the rejections of the claims at issue and allowance thereof are respectfully requested.

Respectfully submitted,

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